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Hearing Date: TBD

Counsel for Capgemini America, Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

GENERAL MOTORS CORP., *et al.*,

Debtors.

)
) Chapter 11
)
)
) Case No.: 09-50026(REG)
) (Jointly Administered)
)
)
)

**LIMITED OBJECTION OF CAPGEMINI AMERICA, INC. TO NOTICE
OF (I) DEBTORS' INTENT TO ASSUME AND ASSIGN CERTAIN
EXECUTORY CONTRACTS, UNEXPIRED LEASES OF PERSONAL
PROPERTY AND UNEXPIRED LEASES OF NON-RESIDENTIAL
REAL PROPERTY AND (II) CURE COSTS RELATED THERETO**

Capgemini America, Inc. and certain of its affiliates and subsidiaries (collectively “Capgemini”), through their undersigned counsel, hereby submit this limited objection (“Objection”) to the Notice of (I) Debtors’ Intent to Assume and Assign Certain Executory Contracts, Unexpired Leases of Personal Property and Unexpired Leases of Nonresidential Real Property and (II) Cure Costs Related Thereto (the “Assumption and Assignment Notice”), served on Capgemini by the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”) pursuant to this Court’s Sale Procedures Order [Docket No. 274].

Background

1. On June 1, 2009 (the “Petition Date”), the Debtors commenced these bankruptcy cases by filing voluntary petitions for reorganization relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”).

2. On June 2, 2009, the Court entered the Sale Procedures Order which includes procedures regarding the assumption and assignment of executory contracts.

3. Pursuant to the Sale Procedures Order, on or about June 8, 2009, Capgemini received the Assumption and Assignment Notice from Debtors indicating that Debtors intend to assume and assign certain of their executory contracts with Capgemini (the “Assumed Contracts”). In addition, on their contract website, the Debtors state that the amount they claim to be owing to Capgemini under the Assumed Contracts is \$4,725,530.16 (the “Proposed Cure Amount”).¹

4. The Proposed Cure Amount is substantially less than what is actually owed to Capgemini under the Assumed Contracts. Further, both the Sale Procedures Order and the Assumption and Assignment Notice limit the Proposed Cure Amount to amounts outstanding as of

¹ This is the cure amount on Debtors’ website, www.contractnotices.com, as of 12:30 p.m. ET on Monday June 15, 2009.

the Petition Date, not the date the contracts will be assumed and assigned. For these reasons, Capgemini files this limited Objection to the Proposed Cure Amount.

Clarification of the Assumed Contracts

5. Capgemini does not object to Debtors' assumption and assignment of the Assumed Contracts to Vehicle Acquisition Holdings LLC. It is not clear, however, if Debtors intend to assume and assign all of their contracts with Capgemini.

6. Capgemini is a party to several contracts (each as amended) with the Debtors:

- (a) Enterprise Services Agreement between General Motors Corp. and Capgemini International B.V. effective June 22, 2005;
- (b) Six separate Global Service Contracts for Information Technology and Related Services between General Motors Corp. and Capgemini America, Inc. (and affiliates) each dated January 24, 2006:
 - GSC #1 – Sales and Marketing Systems
 - GSC #2 – Dealer Systems
 - GSC #5 – Sales, Service & Marketing Integration Management
 - GSC #18 – Global Purchasing Supply Chain Integration Management
 - GSC #21 – Business Services Integration Management
 - GSC #31 – Enterprise Application Integration Management;
- (c) Global Service Contract for Information Technology and Related Services between General Motors Corp. and Capgemini America, Inc. dated October 17, 2008 [GSC #64 – Global Purchasing and Supply Chain – Application Development Services]; and
- (d) Global Service Contract for Information Technology and Related Services between General Motors Corp. and Capgemini America, Inc. dated February 9, 2009 [GSC #67 – OnStar – Application Development Services].

7. Capgemini requests that Debtors clarify whether they intend to assume and assign each of these contracts.

Limited Objection to Proposed Cure Amount

8. Section 365 of the Bankruptcy Code provides, in relevant part,

“(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee –

- (A) cures, or provides adequate assurance that the trustee will promptly cure, such default other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property...;
- (B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and
- (C) provides adequate assurance of future performance under such contract or lease.”

11 U.S.C. § 365(b).

9. The Proposed Cure Amount is incorrect as to the amounts due and owing to Capgemini under the Assumed Contracts as of the Petition Date. The Proposed Cure Amount on Debtors’ website of \$4,725,530.16 does not include several invoices issued to Debtors by Capgemini prior to the Petition Date. Specifically, seven invoices totaling \$697,916.32 were not included on the Debtors’ website. A list of these invoices is set forth in Exhibit A.² In addition, a credit of \$39,032.20 is listed twice on Debtors’ website. Accordingly, the correct cure amount for invoices sent to Debtors prior to the Petition Date is \$5,462,478.68.

10. Further, under Section 365(b)(1) of the Bankruptcy Code, all defaults must be cured as of the time of assumption. The defaults that must be cured include both pre-petition and post-

² Copies of these invoices are available upon request to undersigned counsel.

petition defaults. *See In re Stoltz*, 315 F.3d 80 (2d Cir. 2002); *In re Burger Boys, Inc.*, 94 F.3d 755, 763 (2d Cir. 1996); *In re Bradlees Stores, Inc.*, 2001 WL 36143034, at *2 (Bankr. S.D.N.Y. 2001).

11. The Assumption and Assignment Notice provides that only the amount due and owing as of the Petition Date must be paid. Accordingly, Capgemini objects to the Proposed Cure Amount to the extent it does not provide for payment of additional amounts that become due as of the date of assumption and assignment.

12. Services rendered by Capgemini to Debtors in May 2009 were invoiced in the ordinary course of business in June 2009. The total amount of these invoices is \$5,730,780.35. A schedule of these invoices is annexed hereto as Exhibit B.³

13. Thus, the total cure amount due to Capgemini is \$11,193,259.03. *See* Exhibit A.

Reservation of Rights

14. To the extent the ultimate purchaser and assignee of the Assumed Contracts is not Vehicle Acquisition Holdings LLC, Capgemini requests that the Debtors and such purchaser provide adequate assurances of future performance of the Assumed Contracts in accordance with Section 365(f) of the Bankruptcy Code.

15. Capgemini reserves all of its rights under the Bankruptcy Code and applicable non-bankruptcy law. In addition, Capgemini reserves the right to amend or supplement this Objection, including increasing its requested cure amount.⁴

³ Copies of these invoices are available upon request to the undersigned counsel.

⁴ Under the Assumed Contracts, Debtors are liable for any amounts due to Capgemini by Debtors' non-debtor foreign affiliates. Capgemini reserves the right to seek payment of these amounts from Debtors if they are not paid by the foreign affiliates.

Conclusion

16. Capgemini respectfully requests that the Court (i) only permit assumption and assignment of Debtors contracts with Capgemini conditioned on payment to Capgemini of \$11,193,259.03 as its Cure Amount and (ii) grant such other and further relief as the Court deems just and proper.

Dated: June 15, 2009

Respectfully submitted,

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Counsel for Capgemini America, Inc.

EXHIBIT A

Contract Cure Amount per GM website (pulled June 15, 12:34 est) \$ 4,725,530.16

Invoices Issued Not on GM Website

Invoice Number	PO	Date	GM Approver	
06-BRGM-12-71553CR	GMR71553	1/1/2007	Scott Mira	\$ (52,958.00)
0409-02-3-83438	GMR83438	5/4/2009	Scott Mira	\$ 484,853.32
0309-01-9-82010	GMR82010	4/1/2009	Thomas Berzsenyi	\$ 37,844.00
0309-02-8-84776C	GMR84776	4/9/2009	Denis Burke	\$ 78,441.00
0409-31-7-85558	GMR85558	5/4/2009	Chris Larson	\$ 86,492.50
** 0409-18-9-88025	GMR88025	5/7/2009	Ken Chih	\$ 29,317.50
0409-02-8-88286	GMR88286	5/8/2009	Laura Carlson	\$ 33,926.00
				\$ 697,916.32

Invoices Duplicated on GM Website

Invoice Number	PO	Date	GM Approver	
0309-01-8-70412REV	GMR70412	4/15/2009	Derek Williams	\$ 39,032.20
				\$ 39,032.20

Total Cure Amount per Capgemini AR as of May 2009 \$ 5,462,478.68

Capgemini - June Invoices for May Services \$ 5,730,780.35

TOTAL Cure Amount per Capgemini \$ 11,193,259.03

** in eDacor, not on GM website

EXHIBIT B

Country	SC_Numb	PO_Number	Invoice_Number	Invoice_Date	Contract_Month	Amount
U.S.	21	01R49577	0509-21-6-49577	01-Jun-09	01-May-09	\$14,773.72
U.S.	5	01R49631	0509-05-5-49631	01-Jun-09	01-May-09	\$169,305.50
U.S.	31	01R49632	0509-31-7-49632	01-Jun-09	01-May-09	\$118,183.40
U.S.	1	01R49635	0509-01-2-49635	01-Jun-09	01-May-09	\$700.69
U.S.	1	01R49682	0509-01-2-49682	01-Jun-09	01-May-09	\$35,351.70
U.S.	1	GMR83511	0509-01-2-83511	01-Jun-09	01-May-09	\$52,500.00
U.S.	1	GMR83514	0509-01-2-83514	01-Jun-09	01-May-09	\$613,385.77
U.S.	1	GMR83515	0509-01-2-83515	01-Jun-09	01-May-09	\$354,953.20
U.S.	2	GMR83431	0509-02-3-83431	01-Jun-09	01-May-09	\$486,496.47
U.S.	2	GMR83432	0509-02-3-83432	01-Jun-09	01-May-09	\$288,656.11
U.S.	2	GMR83438	0509-02-3-83438	01-Jun-09	01-May-09	\$789,510.05
U.S.	2	TCR13936	0509-02-3-13936	01-Jun-09	01-May-09	\$7,728.38
U.S.	18	GMR83390	0509-18-4-83390	01-Jun-09	01-May-09	\$55,939.65
U.S.	18	GMR83508	0509-18-4-83508	01-Jun-09	01-May-09	\$8,579.02
U.S.	18	TCR12246	0509-18-4-12246	01-Jun-09	01-May-09	\$6,518.80
U.S.	18	TCR12940	0509-18-4-12940	01-Jun-09	01-May-09	\$1,476.03
U.S.		GMR83798	4/15/2009	01-Jun-09	11-Nov-06	\$281,090.31
U.S.	21	GMR84013	0509-21-6-84013	01-Jun-09	01-May-09	\$24,039.82
U.S.	21	GMR84064	0509-21-6-84064	01-Jun-09	01-May-09	\$262,461.57
U.S.	31	GMR83805	0509-31-7-83805	02-Jun-09	01-May-09	\$210,548.08
U.S.	31	GMR83423	0509-31-7-83423	02-Jun-09	01-May-09	\$37,176.43
U.S.	31	TCR13313	0509-31-7-13313	02-Jun-09	01-May-09	\$39,139.01
U.S.	31	TCR12393	0509-31-7-12393	02-Jun-09	01-May-09	\$35,980.09
U.S.	31	TCR12321	0509-31-7-12321	02-Jun-09	01-May-09	\$77,773.74
U.S.	31	GMR85261	0509-31-7-85261	02-Jun-09	01-May-09	\$49,351.65
U.S.	31	GMR85091	0509-31-7-85091	02-Jun-09	01-May-09	\$8,803.10
U.S.	31	GMR85558	0509-31-7-85558	02-Jun-09	01-May-09	\$84,667.66
U.S.	2	GMR87574	0509-02-9-87574	02-Jun-09	01-May-09	\$28,827.50
U.S.	18	GMR88025	0509-18-9-88025	02-Jun-09	01-May-09	\$42,423.50
U.S.	1	789-1528	0509-01-9--1528	02-Jun-09	01-May-09	\$9,763.06
U.S.	21	GMR88090	0509-21-8-88090	05-Jun-09	01-May-09	\$11,768.70
U.S.	21	GMR85734	0509-21-8-85734	05-Jun-09	01-May-09	\$40,269.22
U.S.	21	GMR85741	0509-21-8-85741	05-Jun-09	01-May-09	\$46,347.25
U.S.	21	GMR84403	0509-21-8-84403	05-Jun-09	01-May-09	\$16,963.00
U.S.	21	GMR84401	0509-21-8-84401	05-Jun-09	01-May-09	\$22,834.00
U.S.	21	GMR88040	0509-21-8-88040	05-Jun-09	01-May-09	\$26,152.66
U.S.	2	GMR88217	0509-02-8-88217	05-Jun-09	01-May-09	\$16,963.00
U.S.	1	GMR84892	0509-01-8-84892	05-Jun-09	01-May-09	\$22,834.00
U.S.	2	GMR88420	0509-02-8-88420	05-Jun-09	01-May-09	\$19,589.50
U.S.	21	TCR15165	0509-21-8-15165	05-Jun-09	01-May-09	\$22,834.00
U.S.	18	GMR84187	0509-18-8-84187	05-Jun-09	01-May-09	\$15,881.50
U.S.	18	GMR87817	0509-18-8-87817	05-Jun-09	01-May-09	\$19,589.50
U.S.	18	GMR87819	0509-18-8-87819	05-Jun-09	01-May-09	\$16,963.00
U.S.	21	GMR87386	0509-21-8-87386	05-Jun-09	01-May-09	\$14,755.17
U.S.	21	GMR87951	0509-21-8-87951	05-Jun-09	01-May-09	\$104,455.96
U.S.	2	GMR88209	0509-02-8-88209	05-Jun-09	01-May-09	\$14,755.20

6/15/2009

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Country	SC_Numb	PO_Number	Invoice_Number	Invoice_Date	Contract_Month	Amount
U.S.	2	GMR84847	0509-02-8-84847	05-Jun-09	01-May-09	\$15,405.20
U.S.	21	GMR88150	0509-21-8-88150	05-Jun-09	01-May-09	\$16,963.00
U.S.	18	GMR88696	0509-18-8-88696	05-Jun-09	01-May-09	\$14,755.17
U.S.	18	GMR88796	0509-18-8-88796	05-Jun-09	01-May-09	\$14,755.17
U.S.	21	1673-543	0509-21-8-3-543	05-Jun-09	01-May-09	\$8,623.09
U.S.	21	1475-5010	0509-21-8--5010	05-Jun-09	01-May-09	\$19,589.50
U.S.	21	1475-4913	0509-21-8--4913	05-Jun-09	01-May-09	\$16,963.00
U.S.	1	768-440	0509-01-8-8-440	05-Jun-09	01-May-09	\$19,589.50
U.S.	31	881-946	0509-31-8-1-946	05-Jun-09	01-May-09	\$6,663.64
U.S.	21	650-361	0509-21-8-0-361	05-Jun-09	01-May-09	\$14,341.78
U.S.	21	1673-499	0509-21-8-3-499	05-Jun-09	01-May-09	\$22,834.00
U.S.	1	775-169	0509-01-8-5-169	05-Jun-09	01-May-09	\$16,963.00
U.S.	2	GMR88282	0509-02-8-88282	07-Jun-09	01-May-09	\$19,589.50
U.S.	2	GMR88286	0509-02-8-88286	07-Jun-09	01-May-09	\$33,926.00
U.S.	2	GMR88284	0509-02-8-88284	07-Jun-09	01-May-09	\$417,189.00
U.S.	2	796-659	0509-02-8-6-659	07-Jun-09	01-May-09	\$381,860.64
U.S.	2	796-656	0509-02-8-6-656	07-Jun-09	01-May-09	\$19,589.50
U.S.	2	796-646	0509-02-8-6-646	07-Jun-09	01-May-09	\$19,589.50
U.S.	2	796-669	0509-02-8-6-669	08-Jun-09	01-May-09	\$22,532.00
U.S.	1	GMR82010	0509-01-9-82010	09-Jun-09	01-Mar-09	\$37,842.48
U.S.	1	GMR82010	0309-01-9-82010CR	09-Jun-09	01-Mar-09	(\$37,844.00)

\$5,730,780.35